

The Archipelago Regional Government Policy Reformulation in Indonesia

Oksep Adhayanto^{1,*}, Agus Sutikno², Irman¹, and Nurhasanah³

^{1,3} Legal Studies Program, Faculty of Social and Political Sciences, Raja Ali Haji Maritime University, Tanjungpinang, 29111, Indonesia

²Departement of Agricultural Cultivation, Faculty of Agriculture, Riau University, Pekanbaru, 28111, Indonesia

³Management Study Progam, Faculty of Economics, Raja Ali Haji Maritime University, Tanjungpinang, 29111, Indonesia

***Corresponding author, Email address:** adhayantooksep@umrah.ac.id

Abstract

The Republic of Indonesia is a country which has a characteristics archipelago. Hence each region boundaries and the rights distribution are regulated and stipulated through the local government laws. Nowadays, the regulatory has been being a multiple implications include the authority, borders and rights problems, challenges and also the obstacles. This phenomenon occurs because the continental paradigmatic model has been being chosen for regional development than its application to the regional regions which should be more ocean government or archipelagic government comprehensively. This research used a literature study method which has collected then analyzed systematically based on documentation and the various official reports which have significantly relevance to the research problem. The results of the study explain that both of the described regions (which has an archipelagic characteristic) shown the restructuring format and regional government laws reformulation. This suitable for catching up to the regional development achievement or performance. The arrangements means for reformulating the new different policy and also the government technical procedures either (Republic of Indonesia's Law Number 23 year of 2014 which concerning to the regional governance).

Keywords: *Archipelagic regional government and Policy reformulation.*

1. Introduction

As an Archipelago State, Indonesia has 17,504 islands where 16,056 islands have names. The conception of an archipelago which has been echoed since the 1957 Djuanda declaration did not necessarily make the focus of development policy in Indonesia lead to marine development. After the reformation, the Indonesian constitution has given a pattern to the territory of the Republic of Indonesia which is an archipelagic country characterized by the archipelago with territories whose boundaries and rights are stipulated by law. On the other situation, after the election year of 2014, the maritime development idea which is closely related to the archipelagic state has sounded a strategic position through the vision maritimely which was been broadcast by President Jokowi as the winner of those election contestant. Regulation up to strict law enforcement (The sinking of foreign ships as a law enforcement action ordered to maintain the Republic of Indonesia sovereignty) based on the maritime and fisheries ministry. The steps to strengthen an archipelagic state, Indonesia has been continuing to be carried out from the central government level to the low regional level linearly.

At the local government level, it is known that there are several islands characterized provinces including the West Nusa Tenggara Provinces, Maluku, North Maluku, North Sulawesi, East Nusa Tenggara, Bangka Belitung and the Riau Islands province. All of these provinces are still gaining with the central government to special obtain recognition as a islands characterized province in Indonesia. Various steps have been taken as a form of efforts to gain both recognition in terms of the special form regulation of Laws and Government Regulations (PP) but these efforts have not yet revealed a bright spot immediately. The only acknowledgment given by the Central Government to the provincial which islands characterized found in Law number 23 of 2014 that concerning the Regional Government, chapter V and concerning the Provincial Governments Authority in the Sea and Islands management.

If looking at the substance regulated, for example on the Chapter V provisions 27th Article upto 30th Article, the stressing given is related to the possessed authority by the characterized islands Province where is related to the natural resources management at sea, co-administration tasks, the DAU (General Allocative Funding) and DAK (Special Allocative Funding) establishment and the regional accelerating development strategy. So as the mandate of 30th Article on the Law number 23 year of 2014 which mandates the Government to formulates the Government Regulations related to the authority at sea management as referred to 27th Article and the Islands characterized province as referred to 28th Article and 29th Article hasn't been realized yet neither.

In the field, this phenomena shall arise the problems that are related to the provincial sea management authority as well as the the islands characterized province authority, but there are also various other problems related to the geographical conditions and also the territory of the islands characterized province. In addition, the need of regulations mold immediately which related to the sea management authority by islands characterized provinces, it is also necessary to harmonize and synchronize the laws and regulations whose relating to the sea management authority of the islands characterized provinces, hence not to overlap between laws and regulations.

The principle of the of power distribution based on the unitary among others: First, the power or authority of the central which each region is given the authority or right to manage and administer some of the government delegated or submitted authority. Shence the process of handover of authority. Second, the central government and local government still have command lines and hierarchical relations. The relationship made by the central government is not to intervene and dictate the local governments on various ways. Third, the authority or power transferred or handed over to the region under certain conditions, where the region is unable to carry out its duties properly, then the delegated authority or handed over can be withdrawn by the central government as the central power or authority (Muchlis Hamdi, 2011).

2. Research Problem And Objectives

The research problem in this article is how are the existing problems faced by Isolated islands characterized Province and how are the regulating urgencies for Islands characterized provinces in Indonesia. Hence this research analyze the existing problems and also for describing the regulating islands characterized Province urgencies either.

3. Materials And Methods

The research used qualitative approach which used the secondary data in the legal (Soerjono Soekanto & Sri, 2001) form sources primarily, the secondary legal sources and tertiary legal sources. The nature of this research is analytical descriptive with data analysis methods used through qualitative analysis technique. The selection of descriptive methods is used to be able to reveals the problems experienced latest picture in the various regions development process the Republic of Indonesia, especially the provinces that have many islands, hence they face lots of different difficulties with other provinces. This research explores the experience of the natural environment as direct data source technically.

Before conducting field observations, researchers conducted an introduction study in the knowing for literature studies and preliminary observations form in the information gathering about the problem to be examined. Furthermore, when viewed from the side of data collection methods or techniques, then the collection of data in this study is mostly done with observations, in-depth interview), and documentation. After the data is collected, an analysis is carried out data to get the conclusions in the form of research results expected.

4. Results and Discussion

4.1 Problems faced by Islands characterized province

The new public policy urgency which shall be governing the islands characterized Province authority is been increasing specifically by the several regions with an interest of a corridorly unified state. The specificity of the island characterized province as a philosophical foundation for the establishment of the Government Regulation that is been

expecting awaited for enabling every obstacle to answer and faces the citizen's demands who lives in the the islands. The legislation function is to "regulate" generally as something substance of a problem solving which exists in society. Hence the policy instrument legislation (beleids instrument) whatsoever the form, whether its a determination form, ratification, or the amendment (Jazim Hamidi & Kemilau Mutik, 2011).

The mandated authority by 27th Article upto 30th of Law Number 23 year of 2014 should have an impact significantly for developing the islands characterized provinces. The natural resources management at the sea which is current provincial government authority must be maximized in order to extract the local revenue sources. For example is the anchorage management proposal for the Riau Islands province around the last 2 years officially applied by the Riau Islands province. The Riau Islands official government have been doing this anchorage management until now, but the implementation still facing the bearer significantly or still have contradictory to the other various laws and regulations.

Other problems such about four years ago since the Indonesian Law number 23 year of 2014 which concerning the regional government enactment, but the general allocative funding calculation (DAU) and also the specific allocative funding (DAK) for islands characterized provinces either, still using the old scheme that making the land area as a yardstick to the considering for the islands characterized provinces which obtaining the budget on transfer from the central government (Tarlton in Robert Endi Jaweng, 2010).

For this reason, the political will is needed for all elements, especially by the central government does, as this country regulators, hence the other sectoral regulations which are issued can consider the vast of the ocean. As long as the new appearing public policy doesn't take the islands characterized province proponent, the development performance and community welfare improvement in the islands will be hard to be achieve.

The islands characterized provinces must be viewed as the privileges provinces who have their self specific archipelagic management, this issue can't be viewed equally with other provinces as generalization. This actual particularity or privilege, the main subject is a matter of authority. The basic for the granting and content of special authority presents reasons uniquely. This authority subject will determine the specific regional relations which will bridge to the other centers or regions as well as the direction of internal policies and governance.

Referring between the center- region relationship, an alternative solution that is possible to realize is the flexibility is the islands characterized province territorial autonomy used scheme. In territorial autonomy, all central government functions are in the central government environment which is released to autonomous units. This dispersion can be done in several ways (Abdul Muis, 2010).

1. The law clearly stipulates various functions of government (*such as public administration*) as the regional household issues;
2. The central government submits various new affairs to the regional autonomy unit sooner;
3. The central government recognizes certain governmental affairs that are "created" or which are then governed by a good autonomy unit because they are not regulated and administered by the central or on the basis of a concurrent power;
4. Allowing an affair which has traditionally been recognized from the beginning as a regulated government function which managed by an autonomy unit.

The regulation of Archipelagic area should be carried out based on the territorial autonomy principle, where the law clearly stipulates various functions of government as regional household issues (Abdul Muis, 2010), especially related to regional authority in the sea. In line with the above statement, what was conveyed by Saksono (Herie Saksono, 2013) in his research conclusions related to regional characterized islands development will be realized if the territorial autonomy can be realized either through the proper regulation.

Finally, the country territorial sovereignty includes land, ocean and the air. These areas are important and should be taken by all parties seriously, both related the stakeholders and the central government, especially in the sea, namely in relation to Indonesia as an Archipelagic State (Admiral, 2016).

4.2 The regulations Arrangement urgency for Islands Characterized Provinces.

Legal functions as a tool of social development should be able brings the of development acceleration changes carried out which leads to the community welfare improvement. It can't be denied through the law that development will be realize the having state ideals life. One of the special autonomy in the Republic of Indonesia is the islands cluster. The islands cluster existence in question actually has some basic juridical in the Indonesian legal system (H. M. Laica Marzuki, 2007).

One of them is The Law Number 23 year of 2014 which contains a legal policy concerning the marine areas management of the regions within the provincial government authority, no longer the regional autonomous government authority, namely the district/ city officially. This makes the centralistic of politics to the maritime area management, in constitution accordance where the implementation is no longer the regional autonomy carried out in a decentralized manner, but autonomy is carried out by deconcentration (Astuti., 2015). This has ignoring implications for the local community diversity as the characteristics, especially in the marine areas management in the region. This is also reinforced by the results of Laynurak's research (Yoseph M. Laynurak, 2009), which revealed that the community welfare (especially fishermen) was also determined by the intensive of potential sea management factors. Therefore, according to Stefanus (Kotan Y. Stefanus, 2011) granting authority to archipelagic regions as a special autonomy form as an alternative to provide opportunities for local governments to improve citizens welfare.

The importance of derivative regulations related to the province characterized by islands needs to receive serious attention from the Government considering that Law Number 23 year of 2014 that concerning the regional government has now been implemented by the local government including the characterized islands provinces (Johanis Leatemala, 2011).

The Ambon Declaration affirmed explicitly asking the central government to realize the characterized Islands Province juridical recognition through the various regulations needed for accelerating the regional development process, for the of citizens welfare realization (*Draft Akademik Rancangan Undang-Undang Daerah Kepulauan*, 2009). Further legal remedies carried out in the characterized islands province juridical recognition region are not intended contextually for demanding the special autonomy but rather a recognition and spesific treatment for archipelagic characteristics provinces have. In this case there are things which have to be different treatment in areas that are wider than land, such as districts/ cities and island characterized provinces (Agus Prihartono PS & Fatkhul Muin, 2016).

With the rule of law concerning to appears, the rights ownership of local resources level, it will indirectly give the local government property rights. Local governments can manage coastal and marine resources more rationally, given the resources availability and resources degradation will determine the level of the community prosperity in the area concerned.

In addition to the regulations need that specifically regulate the islands characterized provinces, it is also necessary to have the different policies towards islands characterized provinces as long as the Local Government Law regime existing focuses more than the continental government, namely the ocean government or archipelagic governments. The current development has a land tendency towards based the development rather than the ocean based development.

Indonesian development paradigm for decades has been more focused on land, this is seen in the archipelagic management case and border areas that have been less touched by the development rarely. During the new order development direction was directed more towards populated areas densely, easy and potential access. Because the choice is a dense area and good potential access (Kemitraan, 2011), what was touched by the development in that era was the big islands like Java and Sumatra. The consequences of these choices have an impact on inequality

development in Indonesia, especially in the eastern region of Indonesia as well as the diversity between large islands and outermost islands (Bismar Arianto, 2016).

Government legal politics is currently trying to restore the development paradigm with a strengthen maritime countries vision. But these ideals are not enough without supporting steps and appropriate legal considerations (Bismar Arianto, 2016). The state clarity aim is to provide clearer rules for maritime areas related to some specificity of these regions which are directly related to neighboring countries regions because some of these regions contribute significantly to the regional economy and even the country generally (Abra, 2016).

The geographical condition of the islands characterized province certainly has a vast sea area than the land area. For example, Riau Islands Province has an area of 252.601 Km², which of 95% is an ocean and only 5% is a land. The Bangka Belitung Islands Province has a total area of 81,725.14 km² where land area is approximately 16,424.14 km² 20 percent of the total area are land and approximately 65,301 km² or 80 percent of the Bangka Belitung Islands Province total area are ocean. Maluku Province where the total area is 581,376 km², with an area of 90 percent is an ocean covering 527,191 km² and 10 percent of land or 54,185 km².

The relationship between the state and natural resources as spots in 33th Article 2nd paragraph and 3rd paragraph on 1945 Base Constitution, according to the Constitutional Court is reduced to five functions, namely: regulation (*regelendaad*), management (*beheersdaad*), policy (*beleid*), actions management (*bestuursdaad*), as well as supervision (*toezichthoudensdaad*). The five functions of the state on natural resources carried out by the central including local government as the Constitutional Court interpreted that can be used to regional regulations categorize on natural resources (Oksep Adhayanto & Yudhanto Satyagraha Adiputra, 2015).

Archipelagic community-based development with a bottom-up approach will get whatever problems are needed in the community easily, because up to nowadays development top-down hasn't been able to solve the archipelagic problems. With the top-down approach dominates the development for too long, being development shifted to bottom-up still leaves many people in the archipelagic area not yet be able to receive holistic development independently. But with the archipelagic bottom-up development approach, of course, it will provide a lot of space for the regions to prepare the community scale priority development (Suyito dan Rendra Setyadiharja, 2016).

The development approach referred to above will certainly requires the regulations which appropriate to the area geographical condition. The islands scattered development need on the islands characterized provinces should be different from the regions that have a larger land landscape area development needs. Regulatory arrangements over all aspects to the citizens domiciled in archipelagic areas need to be carried out immediately for supporting every policy that will be taken by stakeholders so as not to lead the illegal actions.

5. Conclusion

The Islands characterized Province governing regulation realizing importance is a necessity that must be implemented immediately. Given the various emergence problems that arise in regions which have a wider ocean. With the characterized islands province governing policy realization can providing local governments flexibility to contribute more to the development that will be carried out which brings the welfare improving implications significantly for of the citizens who lives in the region. Government political will is certainly awaited in order to realize this towards equal social justice distribution for all Indonesian people as the fifth Precept underlined of Pancasila.

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References

- Abdul Muis. (2010). Perspektif Pengelolaan Wilayah Kepulauan Era Otonomi Daerah. *Jurnal Desentralisasi*, 9(6).
- Abra, E. H. (2016). Konstruksi Hukum Sistem Pemerintahan Kemaritiman. In *Prossiding Seminar Nasional Perbatasan dan Kemaritiman*. Tanjungpinang: Program Studi Ilmu Hukum Universitas Maritim Raja Ali Haji.
- Admiral. (2016). Wilayah Laut Dalam Perspektif Hukum Untuk Bangsa yang Sejahtera. In *Prosidding Seminar Bersama Program Studi Ilmu Hukum dan Fakultas Hukum Universitas Islam Riau*. Tanjungpinang: Program Studi Ilmu Hukum Universitas Maritim Raja Ali Haji.
- Agus Prihartono PS dan Fatkhul Muin. (2016). Sinergi Pengelolaan Kelautan Antara Pemerintah Pusat dan Pemerintah Daerah Sebagai Penguatan Poros Maritim Indonesia. In *Prossiding Seminar Nasional Perbatasan dan Kemaritiman*. Tanjungpinang: Program Studi Ilmu Hukum Universitas Maritim Raja Ali Haji.
- Astuti., S. W. (2015). Reorientasi Politik Hukum Pengelolaan Wilayah Kelautan di Daerah Menurut Undang-Undang No 23 Tahun 2014 Tentang Pemerintahan Daerah: Mendukung Visi Negara Maritim Di Daerah. *Jurnal Selat*, 3(1).
- Bismar Arianto. (2016). Upaya Strategis Memperkuat Manajemen Pemerintahan Kepulauan. In *Prosidding Seminar Bersama Program Studi Ilmu Hukum dan Fakultas Hukum Universitas Islam Riau*. Program Studi Ilmu Hukum Universitas Maritim Raja Ali Haji.
- Draft Akademik Rancangan Undang-Undang Daerah Kepulauan*. (2009). Ambon: Badan Kerjasama Provinsi Kepulauan.
- H. M. Laica Marzuki. (2007). Membangun Undang-Undang Yang Ideal. *Jurnal Legislasi Indonesia*, 4(2).
- Herie Saksono. (2013). Ekonomi Biru: Solusi Pembangunan Daerah Berciri Kepulauan Studi Kasus Kabupaten Kepulauan Anambas. *Pusat Penelitian Dan Pengembangan Pemerintahan Umum Dan Kependudukan Badan Penelitian Dan Pengembangan (BPP) Kementerian Dalam Negeri*.
- Jazim Hamidi & Kemilau Mutik. (2011). *Legislative Drafting, Seri: Naskah Akademik Pembentukan Perda*. Yogyakarta: Totalmedia.
- Johanis Leatemia. (2011). Pengaturan Hukum Daerah Kepulauan. *Mimbar Hukum*, 23(3), 635.
- Kemitraan. (2011). *Rumusan Rekomendasi Kebijakan Pengelolaan Perbatasan di Kepulauan Riau*.
- Kotan Y. Stefanus. (2011). Daerah Kepulauan Sebagai Satuan Pemerintah Daerah Yang Bersifat Khusus. *Jurnal Dinamika Hukum*, 11(1).
- Muchlis Hamdi, S. (dkk). (2011). , *Naskah Akademik RUU Tentang Hubungan Kewenangan Pemerintah Pusat dan Daerah*. Jakarta: BPHN.
- Oksep Adhayanto dan Yudhanto Satyagraha Adiputra. (2015). Dampak Undang-Undang Nomor 23 Tahun 2014 Terhadap Peraturan Daerah Di Kabupaten Bintan Tahun 2015 (Studi Peralihan Kewenangan Dibidang Kelautan dan Pertambangan). *Jurnal Selat*, 3(1).
- Soerjono Soekanto dan Sri. (2001). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.
- Suyito dan Rendra Setyadiharja. (2016). Pembangunan Berbasis Masyarakat Kepulauan (Perspektif Sosiologi Ekonomi). In *Prossiding Seminar Nasional Perbatasan dan Kemaritiman*. Program Studi Ilmu Hukum Universitas Maritim Raja Ali Haji.

Tarlton in Robert Endi Jaweng. (2010). Analisis Desentralisasi Asimetris. *Suara Pembaharuan*.

Yoseph M. Laynurak. (2009). Analisis Model Optimalisasi Sumber Daya Pantai Terhadap Kesejahteraan Nelayan di Kabupaten Belu – NTT. *Jurnal Litbang NTT*, 1(1).